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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
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OFFICE OF PETITIONS

In re Application of
Shum, et al. :
Application No. 09/560,828 : DECISION ON
Filed: April 28, 2000 : PETITION
Attorney Docket No. MS1-476US :

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed June 20, 2003. The petition was recently forwarded to the Office of Petitions for consideration. The Office apologizes for the delay.

The petition under 37 CFR 1.181 is DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted.

The above-identified application became abandoned for failure to timely file the issue fee in response to the Notice of Allowance, mailed January 14, 2003. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue having been received, the application became abandoned on April 15, 2003. The Office mailed a Notice of Abandonment on May 20, 2003.

Petitioner states that he timely filed an issue fee transmittal form in response to the Notice of Allowance. In support thereof, petitioner has included a copy of a USPTO date stamped postcard receipt, identifying this application, itemizing an issue fee transmittal, and bearing a USPTO date stamp of April 10, 2003.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner admits that while the issue fee transmittal contained an authorization to charge the fee to a deposit account, petitioner inadvertently omitted the deposit account number. Nevertheless, petitioner draws the Office's attention to 37 CFR 1.311(b), which states:

An authorization to charge the issue fee or other post-allowance fees set forth in § 1.18 to a deposit account may be filed in an individual application only after mailing of the notice of allowance. The submission of either of the following after the mailing of a notice of allowance will operate as a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge such fees:

- (1) An incorrect issue fee or publication fee; or
- (2) A fee transmittal form (or letter) for payment of issue fee or publication fee.

Accordingly, it is concluded that petitioner has demonstrated that he filed a proper and timely response to the Notice of Allowance. However, to merit withdrawing the holding of abandonment, petitioner must demonstrate that the deposit account in question contained a sufficient balance to charge the issue fee at the time the issue fee transmittal was filed.

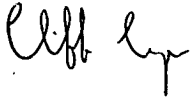
Accordingly, the petition is dismissed without prejudice pending petitioner's submission of a deposit account balance statement for the time period in question. If petitioner can not submit such evidence, petitioner should so notify the Office and the petition to revive under 37 CFR 1.137(b) will be considered.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries related to this decision should be directed
to the undersigned at 571-272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions